

**TENNESSEE STATE BOARD OF EQUALIZATION**  
**BEFORE THE ADMINISTRATIVE JUDGE**

IN RE:        John W. Jordan d/b/a Test Prep Center        )  
              Personal Property Account No. P-128470        ) Davidson County  
              Tax Year 2005                                        )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The Davidson County Assessor of Property, herein after called the "Assessor", has made the following back assessment /reassessment on the subject property:

<u>Original Assessment</u>	<u>Revised Assessment</u>	<u>Back Assessment</u>
\$ -0-	\$6,746	\$6,746

An Appeal has been filed on September 11, 2006, on behalf of the property owner with the State Board of Equalization.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. A jurisdictional hearing was conducted on November 14, 2006, at the Division of Property Assessments' Office. Present at the hearing were John Joyner, the taxpayer who represented himself and Mr. Alan Morgan, Division of Personal Property Assessments for the Metro. Property Assessor.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Test Prep Center, a tutorial service, was operated by Professor John Joyner at 1106 Ed Temple Blvd. in Suite/Unite 103, a location in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). Once a taxpayer has appealed to the County Board, he has until August 1 of the tax year in question or forty-five (45) days from the date of the County Board notice, whichever is later, in which to appeal to the State Board. A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b)(2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show **reasonable cause** for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year



subsequent to the year in which the assessment is made  
(*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization and then to the State Board of Equalization within the time frames set out in the applicable statutes. It is the taxpayer's burden to prove that they are entitled to the requested relief.

Professor Joyner is appealing tax year 2005. Professor Joyner testified that he was not aware of his obligation to file a Schedule "B" return for the personality of his business. Professor Joyner stated that when he first got the Notice of Assessment and Classification in 2005 he turned the forms over to his landlord. Professor Joyner does not dispute that the Notices have specific instructions regarding the directions if a taxpayer disagrees with an assessment.

The Notice clearly states that:

If you have questions regarding the charges set forth above, (including classification, assess value, and/or adjustments made, if any) please contact the Assessor's Office at (615) 862-6073 without delay.

In addition, if you disagree with the charges set forth above. .  
. you may appeal to the Metropolitan Board of Equalization.

The Notice goes on to give the dates by which a request must be made, Professor Joyner failed to contest the values, and as noted on the forms, the assessments became final.<sup>1</sup>

Professor Joyner stated that when he received the Notice for 2006 he recognized his error and filed the appropriate documents. The Professor's statement that he "was ignorant to what the notice "meant" is unfortunately not the type of "reasonable cause" contemplated by the case law or statute.

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<sup>1</sup> This is a forced assessments because the taxpayer/business owner failed to comply with T.C.A. § 67-5-903 by filing the Schedule "B" form within the statutory time.



After reviewing all the documentation and the taxpayers explanation there is, regrettably, not sufficient reasonable cause to maintain that incidents beyond the taxpayers control prevented him from filing with the County Board.

ORDER

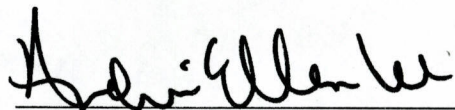
The Administrative Judge believes that "reasonable cause" does not exist and the taxpayer has not sustained his burden and therefore the State Board of Equalization does not have jurisdiction to hear this Appeal.

Pursuant to the Uniform Administrative Procedures Act, T.C.A. §§ 4-5-301—325, T.C.A. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. T.C.A. § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent." Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or
2. A party may petition for reconsideration of this decision and order pursuant to T.C.A. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to T.C.A. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

Entered on this the 12<sup>th</sup> of January, 2007.



ANDREI ELLEN LEE  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Professor John Joyner  
Jo Ann North, Assessor of Property